

House of Representatives

Supplementary Order Paper

Tuesday, 12 February 2013

Corrections Amendment Bill

Proposed amendments

Hon Anne Tolley, in Committee, to move the following amendments:

Clause 2

In *clause 2(1)*, replace “**and sections 41 to 45**” (line 6 on page 3) with “**sections 4(1A) and (1B), 34, 36(1A) and (1B), 40AA, and 41 to 45A, and Part 3**”.

Clause 4

After *clause 4(1)* (after line 25 on page 3), insert:

- (1A) The definition of **unauthorised item** in section 3(1) is amended by inserting the following paragraphs after paragraph (b):
 - “(ba) tobacco:
 - “(bb) any equipment used for smoking tobacco or any other substance.”
- (1B) Paragraph (f) of the definition of **unauthorised item** in section 3(1) is amended by inserting after “section 129(a)” “, **section 129(aa)**”.

Clause 36

After *clause 36(1)* (after line 29 on page 16), insert:

- (1A) The heading to section 129 is amended by omitting “**and alcohol**” and substituting “, **alcohol, and smoking**”.
- (1B) Section 129 is amended by inserting the following paragraph after paragraph (a):
 - “(aa) smokes tobacco or any other substance inside a prison; or”.

New clause 40AA

After *clause 40* (after line 10 on page 18), insert:

40AA New heading and section 179AA inserted

The following heading and section are inserted after section 179:

“Status of certain rules and regulations relating to smoking in prisons

“179AA Status of certain rules and regulations relating to smoking in prisons

- “(1) On and from 12 February 2013, the following rules and regulations must be treated as if they were made after **Part 3** of the Corrections Amendment Act **2011** came into force:
- “(a) any rule made before 12 February 2013 by a prison manager under section 33 that forbids prisoners to smoke tobacco or any other substance, or forbids prisoners to possess tobacco or any tobacco-related item; and
- “(b) regulations 4 and 6 of the Corrections Amendment Regulations 2012.
- “(2) On and from 12 February 2013, no proceedings may be brought against the Crown questioning the validity of any rules or regulations referred to in **subsection (1)**.
- “(3) Nothing in this section affects proceedings commenced before 12 February 2013 to the extent that any relief sought or granted in those proceedings relates only to the period before 12 February 2013.”

Clause 42

In the heading to *clause 42*, replace “**section 199AA**” (line 6 on page 19) with “**sections 199AA and 199AB**”.

In *clause 42*, replace “section is” (line 7 on page 19) with “sections are”.

Clause 43

In *clause 43*, replace “following subsection” (lines 29 and 30 on page 20) with “following subsections”.

New Part 3

After *clause 46* (after line 12 on page 22), insert:

Part 3
Amendments to Smoke-free Environments Act
1990

47 Amendments to Smoke-free Environments Act 1990

- (1) This section amends the Smoke-free Environments Act 1990.
- (2) The definition of **prison** in section 2(1) is repealed.

- (3) The definition of **workplace** in section 2(1) is amended by repealing paragraph (e)(vi).
- (4) Section 6A is repealed.

Explanatory note

This Supplementary Order Paper amends the Corrections Amendment Bill.

Clause 2, which relates to commencement, is amended so that *clauses 4(1A) and (1B), 34, 36(1A) and (1B), 40AA, and 41 to 45A, and Part 3* come into force on the day after the date of Royal assent.

Clause 4 is amended so that tobacco and any equipment used for smoking tobacco or any other substance is included in the definition of unauthorised item in the Corrections Act 2004 (the **Act**). (Tobacco and related smoking equipment are currently declared to be unauthorised items in the Corrections Regulations 2005.)

The amendment to *clause 36* makes smoking tobacco or any other substance inside a prison a disciplinary offence under the Act.

New clause 40AA inserts *new section 179AA* into the Act.

New section 179AA(1) validates certain rules and regulations made under the Act forbidding smoking or the possession of tobacco or smoking equipment by prisoners in prison. The effect of the validation is that on and from 12 February 2013, those rules and regulations must be treated as if they were made after Part 3 of the Bill came into force.

New section 179AA(2) precludes proceedings from being brought against the Crown that question the validity of those rules and regulations.

New section 179AA(3) provides that proceedings commenced before 12 February 2013 are not affected by section 179AA(1) to the extent that any relief granted or claimed in those proceedings relates only to the time before 12 February 2013.

The amendments to *clauses 42 and 43* correct minor drafting errors.

New Part 3 makes consequential amendments to the Smoke-free Environments Act 1990.